

# AGENDA

# General Plan/LCP Implementation Committee March 18, 2009 3:30 p.m. **City Council Chambers**

1.	Approve Action Minutes from February 18, 2008 Attachment No. 1	3:30-3:35pm	
2.	2. Draft Zoning Code Review		
	A. Schedule Attachment No. 2	3:35-3:45pm	
	B. Bluff Development Regulations Attachment No. 3	3:45-5:20pm	
3.	Items for Future Agenda	5:20-5:25pm	
4.	Public Comments on non-agenda items 5:25-5:30pm		
5.	. Adjourn to April 1, 2009, 3:30 p.m.		

## Attachments:

- Draft Action Minutes for February 18, 2009 Draft Zoning Code Review support material 1.
- 2.

# ATTACHMENT NO. 1

Draft Action Minutes From February 18, 2009



# CITY OF NEWPORT BEACH GENERAL PLAN/LCP IMPLEMENTAION COMMITTEE

## **DRAFT ACTION MINUTES**

Action Minutes of the General Plan/LCP Implementation Committee held at the City Council Chambers, City of Newport Beach, on **Wednesday**, **February 18**, **2009** 

### **Members Present:**

Χ	Ed Selich, Mayor, Chairman
Χ	Leslie Daigle, Council Member
Χ	Don Webb, Council Member
Χ	Barry Eaton, Planning Commissioner
Χ	Robert Hawkins, Planning Commissioner
Χ	Michael Toerge, Planning Commissioner

## **Advisory Group Members Present:**

rancol, croup monipolo i rocom		
Mark Cross		
Larry Frapwell		
William Guidero		
Ian Harrison		
Brion Jeannette		
Don Krotee	1	
Todd Schooler	-	
Kevin Weeda		
Dennis Wood		
	Larry Frapwell William Guidero Ian Harrison Brion Jeannette Don Krotee Todd Schooler Kevin Weeda	

## **Staff Representatives:**

Χ	Sharon Wood, Assistant City Manager	
	David Lepo, Planning Director	
Χ	Aaron Harp, City Attorney	
Χ	James Campbell, Senior Planner	
Χ	Gregg Ramirez, Senior Planner	
Χ	Melinda Whelan, Assistant Planner	

E = Excused Absence

## **Committee Actions**

1. Agenda Item No. 1 – Approval of minutes as corrected of January 28, 2008.

**Action:** Committee approved draft minutes.

Vote: Consensus

## 2. Agenda Item No. 2 – CLUP Amendment Progress Report

#### **Action Report:**

- California Coastal Commission (CCC) approved the City's Land Use Plan (CLUP) amendment application on February 5, 2009
- included a provision to allow timeshares under certain operational rules that will be included in the future Implementation Plan
- Commission also rejected their staff's position related to the method of lower-cost accommodation mitigation and accepted the City's alternative policy; however, they modified it such that any in-lieu funds collected must be used for lower-cost accommodations rather than the more flexible provision requested and did not include any provision for "oversight" of the use of in-lieu funds
- Coastal staff will be updating the policy language and findings to implement the Commission's action and the final package will be considered by the Commission at one of their next meetings
- Principal Planner Jim Campbell, with the assistance of the City Attorney's office, will participate and monitor the effort to ensure that the Commission's action is carried forth as intended and the revised language will go back to the Coastal Commission for final review in April and the City Council by summer

## 3. Agenda Item No. 3. - Draft Zoning Code Review

Action: The Committee began with the first item A. Development on Bluffs and Canyons and proceeded through the remaining items, B. Environmental Study Area (ESA) Regulations and C. Parking – Eating and Drinking Establishments. The Committee and Advisory Members discussed and directed staff to:

- bring back oblique photos and aerial exhibits of development areas and provide additional geographic specificity clarifying Pacific Drive, East Ocean Boulevard, Kings Road, Kings Place and Cliff Drive to assist in establishing and presenting proposed methodology for bluff and canyon setbacks (consider creating two setback lines – one for primary structures and one for accessory structures and improvements)
- delete subsection 8. Other Areas. under Section on Development on or Abutting Bluffs and Canyons
- consider revising subsection D. Modification of development areas 1.a. and 2.a. to provide language that is more general regarding measuring slope stability and refer engineering to Building Department

- investigate the possibility of having the City provide a master biological study for all ESA areas throughout the City and relook at entire ESA section to verify that the draft regulations do not duplicate regulations of other agencies, bring-back revised ESA section
- delete subsection 8. Subdivisions. Under Section on Environmental Study Areas
- re-look at how the parking regulations for eating and drinking establishments and related outdoor dining are written so they are internally consistent

The public provided the following comments:

- allow review authority to review E. under Section on Development on or abutting Bluffs and Canyons
- received clarification from staff that 13' for Irvine Terrace properties was appropriate for the single-family homes
- clarification on Pacific Drive bluffs and bluffs adjacent to Mariners Mile and Newport Heights

Vote: Consensus

**4. Agenda Item No. 3** – Items for future agenda

Action:

Vote: None

5. Agenda Item No. 5. - Committee Meeting Schedule – Set Dates

**Action:** Provide schedule to Committee and tentatively set next meeting for

March 4th

Vote: None

6. Agenda Item No. 6 - Public Comments on non-agenda items

None

Meeting Adjourned 6:30 p.m.

# ATTACHMENT NO. 2

Draft Zoning Code Review

# **Agenda Item 2A**

# **Schedule**

Staff anticipates needing two meetings in April to obtain necessary policy direction from the Committee before the next version of the draft code can be finalized. The projected date for release of the Planning Commission draft is June 12<sup>th</sup>. The timeframe should be adequate to produce a draft code that incorporates all Committee recommendations, including the task of removing all regulations intended to comprise the Implementation Plan of the LCP. Following release of the second draft and prior to the first PC hearing, staff and the consultants will conduct a series of public outreach meetings and obtain comments on the draft code from the Harbor Commission on regulations within their purview. These meetings will be followed by the first Planning Commission hearing, tentatively set for July 19<sup>th</sup>.

# City of Newport Beach REVISED ZONING CODE SCHEDULE March 13, 2009

### General Plan/LCP Implementation Committee Meetings:

April 1, 2009

Tentative Agenda: Canyon Development Regulations, Environmental Study Areas, Responses from City Attorney

April 15, 2009

Tentative Agenda: Adult Businesses, Balboa Island Regulations, Miscellaneous remaining items

Release of Second Public Draft: June 12, 2009

Release of CEQA document: June 2009

Public Outreach/Other City Commissions: June 12-July 8

Harbor Commission

- Restaurant Association
- Architect/Design Community
- Bluff and Canyon Property Owners
- Others TBD

Planning Commission Hearings Begin: July 9, 2009

# **Agenda Item 2B**

# **Bluff Development Regulations**

- Existing Code: None
- Draft Code: new section to provide provisions for regulating development on and adjacent to bluffs and canyons.
- Draft regulations divide the bluff and canyon properties into distinct geographic development areas
- Canyon regulations will be presented at a future meeting
- The following items are included in this agenda packet:
  - 1. General Plan Bluff and Canyon Polices
  - 2. An brief description of variables, principals and methodologies used to craft the regulations
  - 3. Draft zoning code regulations
  - 4. A matrix that outlines the issues and solutions for each development areas
  - 5. A citywide exhibit showing the location of each bluff development area
  - 6. Detailed exhibits depicting development areas

# **General Plan Bluff and Canyon Policies**

### NR 23.1 Maintenance of Natural Topography

Preserve cliffs, canyons, bluffs, significant rock outcroppings, and site buildings to minimize alteration of the site's natural topography and preserve the features as a visual resource. (*Imp 2.1*)

### NR 23.2 Bluff Edge Setbacks

Maintain approved bluff edge setbacks for the coastal bluffs within the communities of Castaways, Eastbluff, Park Newport, Newporter North (Harbor Cove), and Bayview Landing and neighborhoods from Jamboree Road to Corona del Mar, north of Bayside Drive, to ensure the preservation of scenic resources and geologic stability.

### NR 23.4 New Development on Blufftops

Require all new blufftop development located on a bluff subject to marine erosion to be set back based on the predominant line of development. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools. The setback shall be increased where necessary

to ensure safety and stability of the development. (Imp 2.1)

#### NR 23.5 New Accessory Structures on Blufftops

Require new accessory structures, such as decks, patios and walkways, that do not require structural foundations to be sited at least 10 feet from the edge of bluffs subject to marine erosion. Require accessory structures to be removed or relocated landward when threatened by erosion, instability or other hazards. (Imp 2.1)

#### NR 23.6 Canyon Development Standards

Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements. (*Imp 2.1, 6.1*)

#### NR 23.7 New Development Design and Siting

Design and site new development to minimize the removal of native vegetation, preserve rock outcroppings, and protect coastal resources. (*Imp 2.1*)

# Bluff and Canyon Development

# Variables & Guiding Principles - The following were used by staff to analyze each geographic area and create the draft regulations

- 1. Topography slope, landform type and orientation
- 2. Public views
- 3. Lot depth
- 4. Lot area
- 5. Street orientation
- 6. Existing and proposed zoning regulations (setbacks and building height)
- 7. Existing development pattern and existing alteration (3 dimensions)
- 8. General Plan Polices
- 9. Differing General Plan and CLUP policies apply to different areas
- 10. Community expectations preserve property rights (except when the application of policy can restrict my neighbor to my advantage)
- 11. Equity
- 12. Protect property rights
- 13. Protect landforms as a visual resource based upon General Plan and CLUP Policies
- 14. Should some policies be modified if implementation leads to undesirable results?
- 15. Minimize creating non-conformities
- 16. Property boundaries in relation to the landform
- 17. Use all available data (photos, surveys, contour maps, etc.)

# Bluff and Canyon Development Methodologies – Following are a sample of the various methodologies staff used to develop the draft regulations

- 1. Predominate line of existing development existing developed area
  - Generally too restrictive, but may be appropriate for some
- 2. Predominate line of existing development median value
  - Half the block will be made nonconforming
- 3. Predominate line of existing development greatest extent of development

Potentially leads to inappropriate alteration of the landform

4. Predominate line of existing development – equal elevation

Differing topographic settings can lead to some lots being too restricted and others overly permissive

5. Stringline between adjacent structures in "plan view"

Inequitable and can be overly restrictive depending upon development pattern

May not translate to elevation well and may lead to inappropriate alteration

6. Equal setback

Equitable only when lot depth is consistent, which rarely occurs

Varying locations of the landform leads to inconsistent protection of the landform and possibly inappropriate alteration

7. Percentage of lot depth setback

Equitable

Varying locations of the landform leads to inconsistent protection of the landform and possibly inappropriate alteration

8. Setback from topographic feature such as bluff edge or canyon bottom

Location of bluff edge is not always certain and canyon bottom may be on a different lot

9. Aerial photographic interpretation

Use of air photography (vertical and oblique) and verifying a horizontal position or elevation of identified features using topographic survey data

Inherent inaccuracies

## 20.xx.xxx - Development on or Abutting Bluffs and Canyons

This Section provides standards to protect and enhance, where feasible, the scenic and visual qualities of identified bluffs and canyon slopes and to ensure public safety by designing and siting development appropriately.

- **A. Applicability.** This Section applies to lots that abut or contain bluffs or canyons identified below and as depicted in the Bluff and Canyon Properties (Figure xx) in Part 8 (Maps).
- **B.** Development areas for bluff properties. Development shall be sited within the allowable development areas identified by this Subsection or as modified in compliance with Subsection D (Adjustment of development areas).
  - 1. Location of principal structures and major accessory structures. Principal structures and major accessory structures (i.e. buildings, pools and retaining walls exceeding 6 feet in height from existing grade) shall be located within the development areas specified below.

#### a. Cliff Drive

Principal and major accessory structures including grading shall be located within the development area generally depicted on Exhibit \_\_\_.

#### b. Kings Road

Principal and major accessory structures including grading shall be located within the development area generally depicted on Exhibit \_\_\_.

#### c. Kings Place

Principal and major accessory structures including grading shall be located within the development area generally depicted on Exhibit \_\_\_.

- d. Upper Newport Bay. Principal and major accessory structures shall not be located closer to the bluff edge than the minimum setbacks depicted on the Setback Maps (See Part 8 (Maps), Figure x). Structures on and alterations (grading) to the bluff face are prohibited.
- e. Irvine Terrace (Dolphin Terrace and Bayadere Terrace). Principal and major accessory structures may be constructed on the bluff face and shall not visibly extend below an elevation that is 13 feet below the average elevation of the top of the curb abutting the lot. Principal structures shall set back a minimum of 10 feet from the existing bluff edge or in compliance with setbacks established by Variance No. 162 depicted on the Setback Maps (See Part 8, Figure x). No new vehicular access shall be allowed from Bayside Drive.

- f. Avocado Avenue. Principal and major accessory structures including grading shall be located within the development area generally depicted on Exhibit \_\_\_.
- g. Pacific Drive (2235 through 2329 Pacific Drive). Principal and major accessory structures may be constructed on the bluff face and shall not visibly extend below the 53-foot NAVD88 contour. No new vehicular access shall be allowed from Bayside Drive.
- h. Carnation Avenue (301 through 317 Carnation Avenue). Principal structures may be constructed on the bluff face and shall be located within the development area generally depicted on Exhibit \_\_\_. Major accessory structures may be constructed on the bluff face and shall not extend below the 70-foot NAVD88 contour
- i. Carnation Avenue (201 through 239 Carnation Avenue). Principal and major accessory structures may be constructed on the bluff face and shall not visibly extend below the 50.7-foot NAVD88 contour.
- j. Breakers Drive East (3100 through 3200 Breakers Drive). Principal and major accessory structures may be constructed on the bluff face and shall not visibly extend above the 52-foot NAVD88 contour.
- k. Ocean Boulevard (3200 through 3400 blocks). Principal structures may be constructed on the bluff face and shall not visibly extend below the 48-foot NAVD88 contour. Major accessory structures may be constructed on the bluff face and shall not extend below the 33foot NAVD88 contour.
- Ocean Boulevard (3601 through 3619 Ocean Blvd.). Principal and major accessory structures including grading shall not visibly extend onto the bluff face beyond existing development.
- m. Cameo Shores and Shorecliffs. Principal structures shall be located within the development area generally depicted on Exhibit \_\_. Accessory structures requiring foundations including pools and spas shall be set back a minimum of10 feet from the bluff edge.
- 2. Improvements outside the development area. No structures or grading shall be allowed outside the development areas specified except for authorized above-grade access stairs or trails to the base of the bluff, drainage devices, utilities, native landscaping and temporary irrigation. All unauthorized structures and invasive landscaping shall be removed.
- **C. Development areas for canyon properties.** Development shall be sited within the allowable development areas identified by this Subsection or as modified in compliance with Subsection D (Adjustment of development areas), below.
  - 1. Location of principal structures and major accessory structures. Principal structures and major accessory structures (i.e. buildings, pools

and retaining walls exceeding 6 feet in height from natural grade) within Buck Gully and Morning Canyon shall not be located on the canyon slope below an elevation that is the prescribed number of feet below the average elevation of the top of the curb abutting the lot, as shown in Table 3-xx (Vertical Elevation Limits that Establish Development Areas for Lots Adjacent to Canyons). Also see Figure 3-xx (Development Limit on Canyon Face). In cases where there is no curb, the average elevation of the centerline of the abutting street shall be used.

- 2. Improvements outside the development area. Minor accessory structures (i.e. fences, gazebos, benches, paths, garden walls, patios, decks, retaining walls 6 feet in height or less, landscaping, irrigation systems, drainage devices and utilities) and minimum grading necessary to accommodate the structures may be permitted below the development area within required setbacks provided they meet applicable height limitations. All unauthorized structures and invasive landscaping shall be removed.
- 3. Exceptions. In cases where the application of the vertical limit provides a development area that is less than 55 feet measured horizontally from the front property line, the development area may be increased up to 55 feet and development may extend below the maximum specified vertical limit.

Table 3-xx
Vertical Elevation Limits that Establish Development Areas
for Lots Adjacent to Canyons

Geographic Areas See Map (Figure xx) in Part 8 (Maps).	Vertical limit
Buck Gully	
Cabrillo Terrace	2 feet
Columbus Circle	8 feet
Cortes Circle	4 feet
De Sola Terrace	18 feet
Evening Canyon Road	12 feet
Hazel Drive (North of Coast Hwy.)	15 feet
Hazel Drive (South of Coast Hwy.)	20 feet
Isabella Terrace	10 feet
Mendoza Terrace	10 feet
Poppy Avenue (600 and 700 blocks)	10 feet
Morning Canyon	
Milford Drive	2 feet
Morning Canyon	10 feet
Rockford Place	4 feet
Rockford Road	4 feet
Seaward Road	8 feet

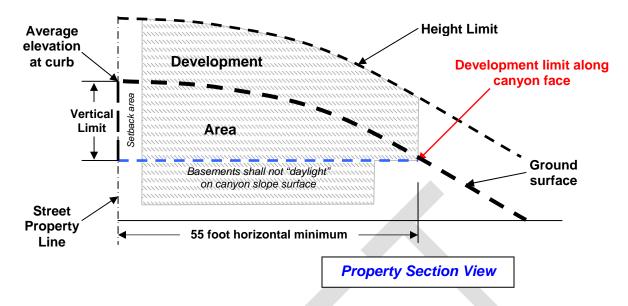


Figure 3-xx
Development Limit on Canyon Face

- D. Adjustment of development areas established by Subsections B and C.
  - 1. **Reduction of development areas.** A bluff or canyon development area shall be reduced whenever necessary to:
    - a. Ensure safety and stability against slope failure (i.e., landsliding) for the economic life of a development. At a minimum, the development area shall be adjusted to ensure a slope stability factor greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or canyon or a factor of safety greater than or equal to 1.1 for the seismic condition of the bluff or canyon, whichever is further landward; and
    - b. Ensure that the principal structures are safe from hazards due to erosional factors for the economic life of the building.
  - 2. **Increase of development areas.** A bluff or canyon development area may be increased through the approval of a Site Development Permit when all of the following conditions exist:
    - a. The increased bluff or canyon development area shall ensure a slope stability factor safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or canyon or a factor of safety greater than or equal to 1.1 for the seismic condition of the bluff or canyon, whichever is further landward; and

- b. The increased bluff or canyon development area will provide adequate protection from erosion for the economic life of the development, and.
- c. Visible development within the increased bluff or canyon development area is within the predominant line of existing development.



# Development Area Matrix

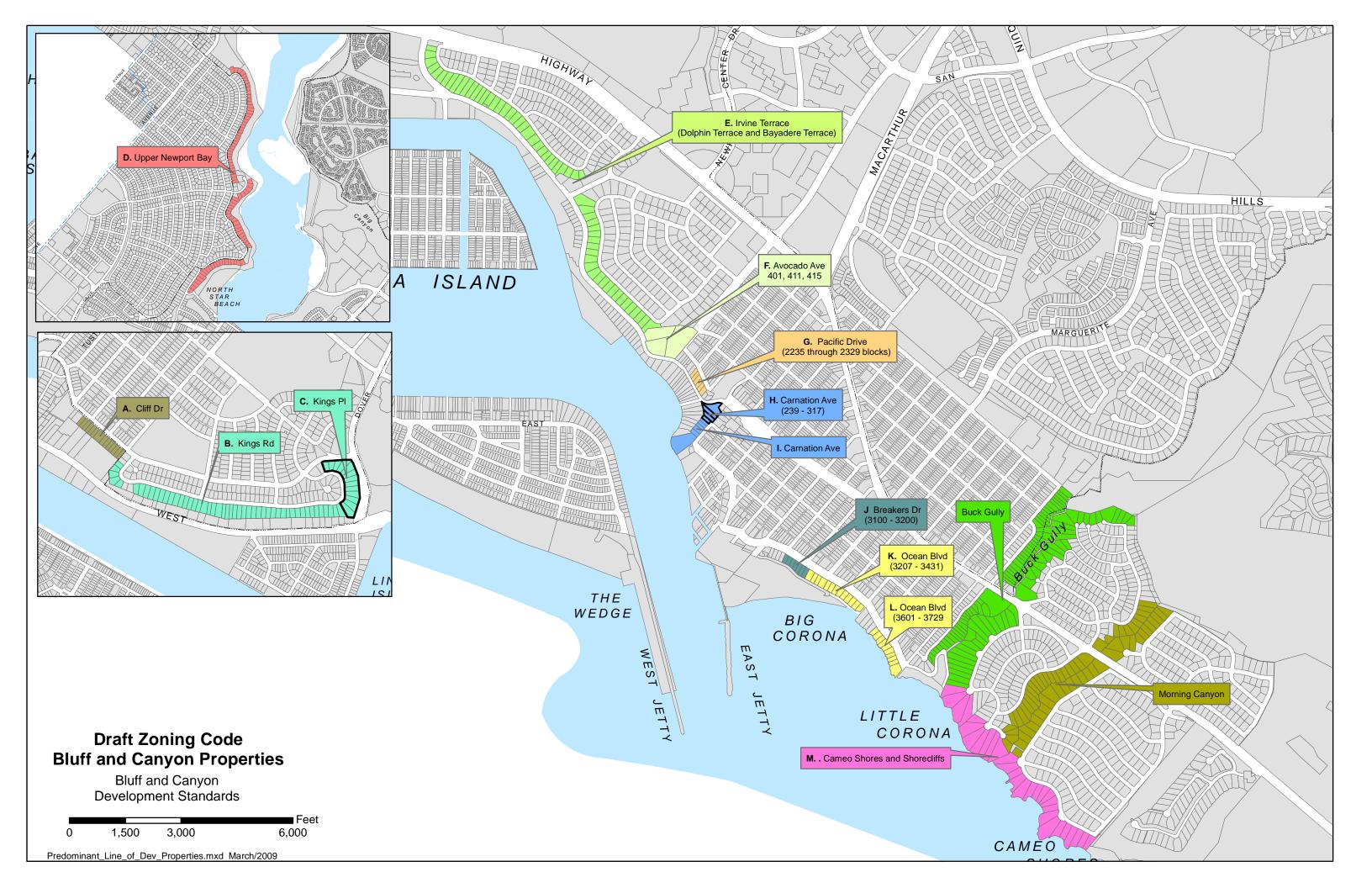
Area	Issues	Solutions
a. Cliff Drive	Residential development of the landform is relatively uniform  Significant portion of the landform is on commercial property below	If commercial lot is permitted to cut the toe of the slope to the property line for a building, no development restriction  or
	Future visibility question when commercial property below developed	Two elevation contours based upon existing development pattern for both principal and accessory improvements
b. Kings Road	Varying lot depths relative to the street and landform. Varying lot areas and differing development patterns and sloping street.	Two elevation contours based upon existing development pattern
	Bluff is not uniformly on residential or commercial property below	
	No equitable standard will preserve the landform equally	
	Visibility constraints from below due to commercial buildings	
c. Kings Place	Development pattern is relatively uniform. Recent terracing has occurred.	One elevation contour based upon existing development pattern
	Varying lot depths, lot areas.	
	Curving street and landform	
d. Upper Newport Bay.	Bluff face is on abutting lot that is publically owned; encroachments discovered	Maintain existing setbacks and prohibit future further encroachments on public property
	25-foot & 10-foot setback from CLUP appears overly restrictive based upon development pattern guided by existing setbacks of the Districting maps	

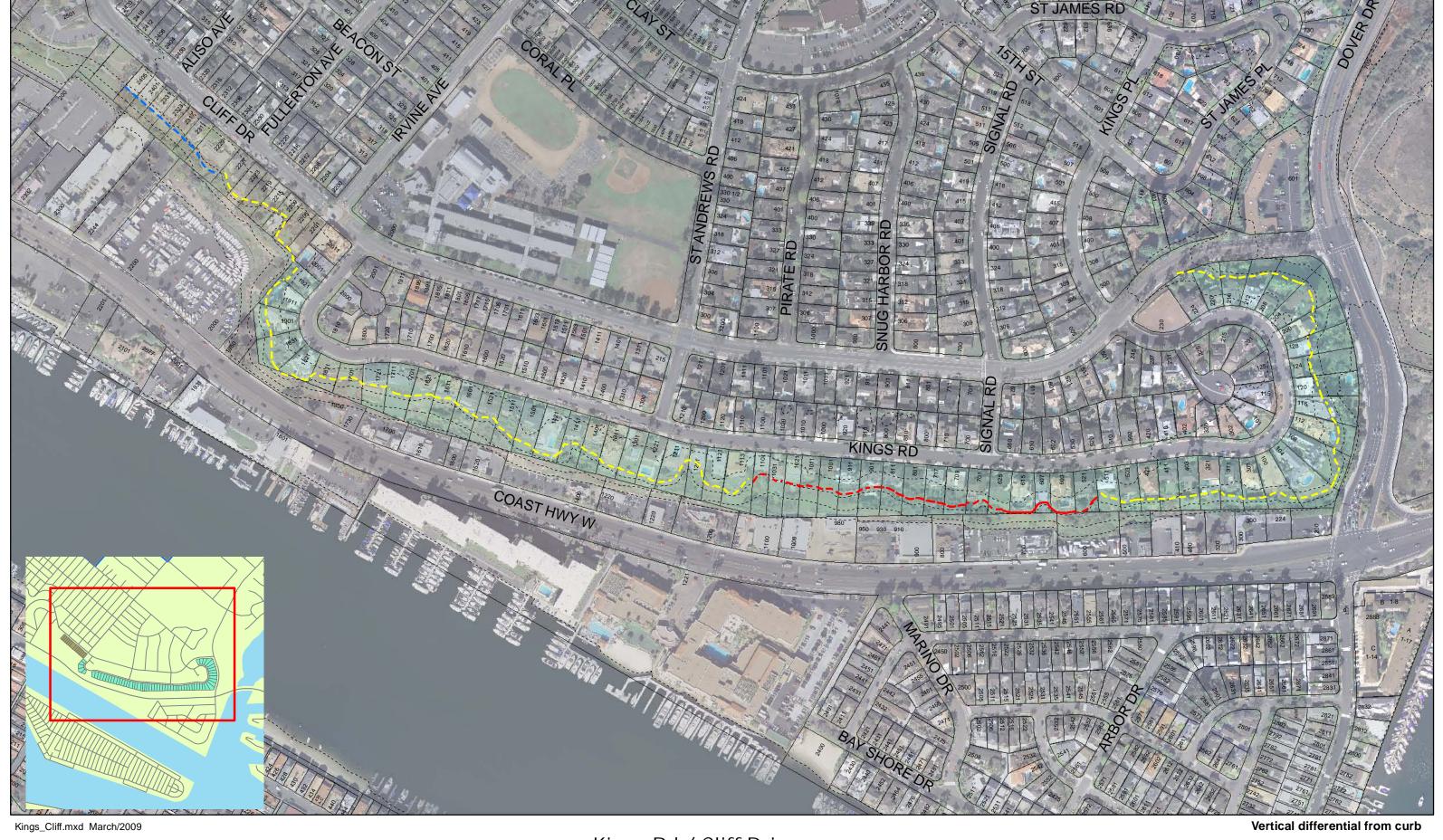
# Development Area Matrix

Area	Issues	Solutions
e. Irvine Terrace (Dolphin Terrace and Bayadere	Development pattern is relatively uniform, however excavation of basement levels and terracing has occurred	Maintain existing setback limits for principal structures:
Terrace).	Private height limit of 14 feet	Maintain 10-foot rear yard setback, variance 162 setback limit and establish 10-foot from
	Dolphin Terrace has a setback line based upon Variance No. 162 applicable to principal structure	the slope edge for remainder
	Bayadere Terrace has a private 10-foot slope edge setback for principal structure	Continue to permit basement development by allowing 13 feet of excavation to "daylight" on the slope face
f. Avocado Avenue.	Three lots without a consistent development pattern  No current regulation other than standard setbacks	Development limit based upon existing altered areas and son additional alteration is permitted for one lot – see map
g. Pacific Drive (2235 through 2329 Pacific Drive).	Two distinct development patterns where western portion (except one lot) is fully developed; eastern portion has a relatively consistent development pattern	No additional limitation on alteration for eastern portion of Pacific Drive – it is already altered
, and the second	Lots are not perpendicular to the bluff or streets	Single development limit area for principal and accessory structures based upon established development pattern using equal elevation contour
h. Carnation Avenue (301 through 317	Horizontal development pattern well established roughly parallel to the street	Accessory structure line based upon existing development pattern
Carnation Avenue).	Landform does not follow the street in a consistent way	Horizontal development line parallel to Carnation based upon established
, o do	Accessory structures beyond principal building	development pattern
	One lot is significantly underdeveloped	
	Use of 50.7 foot contour would lead to significant alteration of the remaining highly visible landform	

# Development Area Matrix

Area	Issues	Solutions
i. Carnation Avenue (201 through 239	Relatively consistent development pattern down the bluff face	50.7 foot contour for both principal and accessory improvements
Carnation Avenue).	Analysis for AERIE project identified 50.7 foot contour	
j. Breakers Drive East (3100 through 3200 Breakers Drive).	Two distinct development patterns where western portion (except one lot) is fully developed; eastern portion has a relatively consistent development pattern at the base of the bluff; however one lot is built and another lot will be	Permit development up the bluff face for all lots to the 52-foot contour to preserve equity  or
Breakers Brive).	built to the 52-foot contour  Significant public views from Ocean Boulevard above over these properties	Maintain the existing development pattern and the two lots at the 52-foot
k. Ocean Boulevard (3200 through 3400	Recent construction has extended the historical development pattern own the bluff face	Use the two contours established by the Coastal Commission
blocks).	Coastal Commission has applied two elevation contours  Equity	
I. Ocean Boulevard (3601 through 3619 Ocean Blvd.).	Two different topographic settings. The western three lots are developed approximately at the 20-foot contour and the eastern lots are much higher on the bluff. The western lots have a driveway from Inspiration Point and area above the driveway is in the public right of way. Western lots have a relatively consistent development pattern both horizontally and vertically with one lot under-developed.	Maintain existing development pattern and allow one underdeveloped lot to develop consistent with abutting lots
m. Cameo Shores and Shorecliffs.	Topographic setting, lot configuration and bluff street and structure orientation differences. Cameo Shores has a fairly distinct bluff edge although one portion of the bluff appears altered significantly. End lots are transitional to the canyons. Shorecliffs has a less distinct bluff edge.	Multi-lot stringline for principal structures  10-foot setback from bluff edge for accessory structures





Kings Rd / Cliff Drive
Development on Bluffs and Canyons

- - 16 FEET
- - 24 FEET
- - 28 FEET

---- 20 ft Contour Interval





Upper Newport Bay - Galaxy Dr - 2036 through 1614

Development Areas For Bluff Properties

20-Foot Contour Interval
--- 10 ft Setback
--- 20 ft Setback

75 150



A

Upper Newport Bay - Mariner Dr. 1001-1033 and Galaxy Dr - 2036 through 1200

Development Areas For Bluff Properties

20-Foot Contour Interval
--- 10 ft Setback
--- 20 ft Setback



Λ

 $\stackrel{\frown}{\mathsf{N}}$ 

Irvine Terrace - Dolphin Terrace

Development Areas for Bluff Properties

--- 13 ft Vertical differential from curb

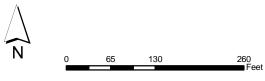
20 ft Contour Interval

----- Variance 162 - Stringline



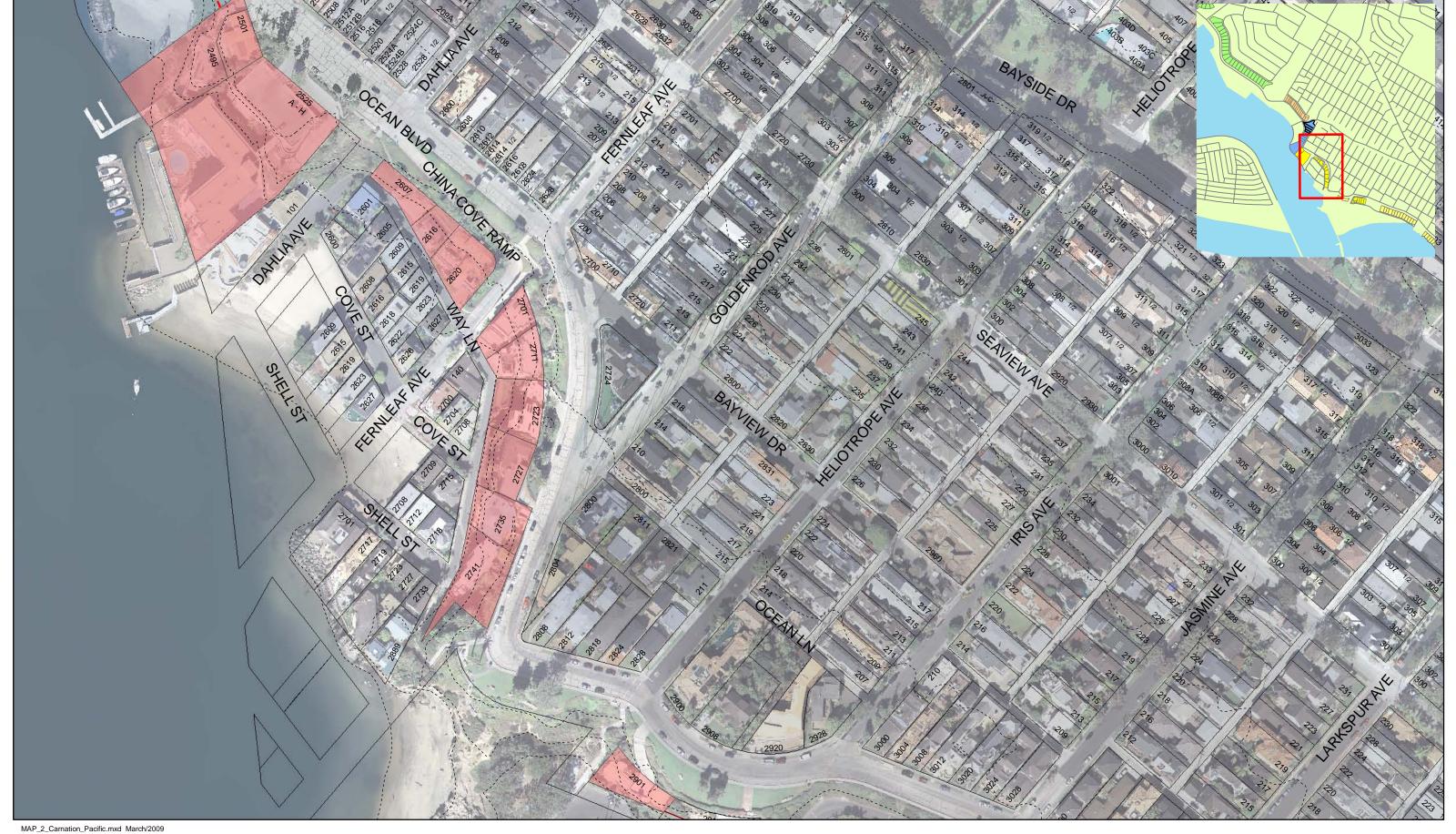


MAP\_2\_Carnation\_Pacific.mxd\_March/2009



Carnation Ave / Pacific Drive
Development Areas For Bluff Properties

20 ft Contour Interval



0 70 140 280 Foot

Ocean Blvd - Areas of Significant Existing Bluff Alterations No Additional Bluff Development Regulations Proposed

20 ft Contour Interval

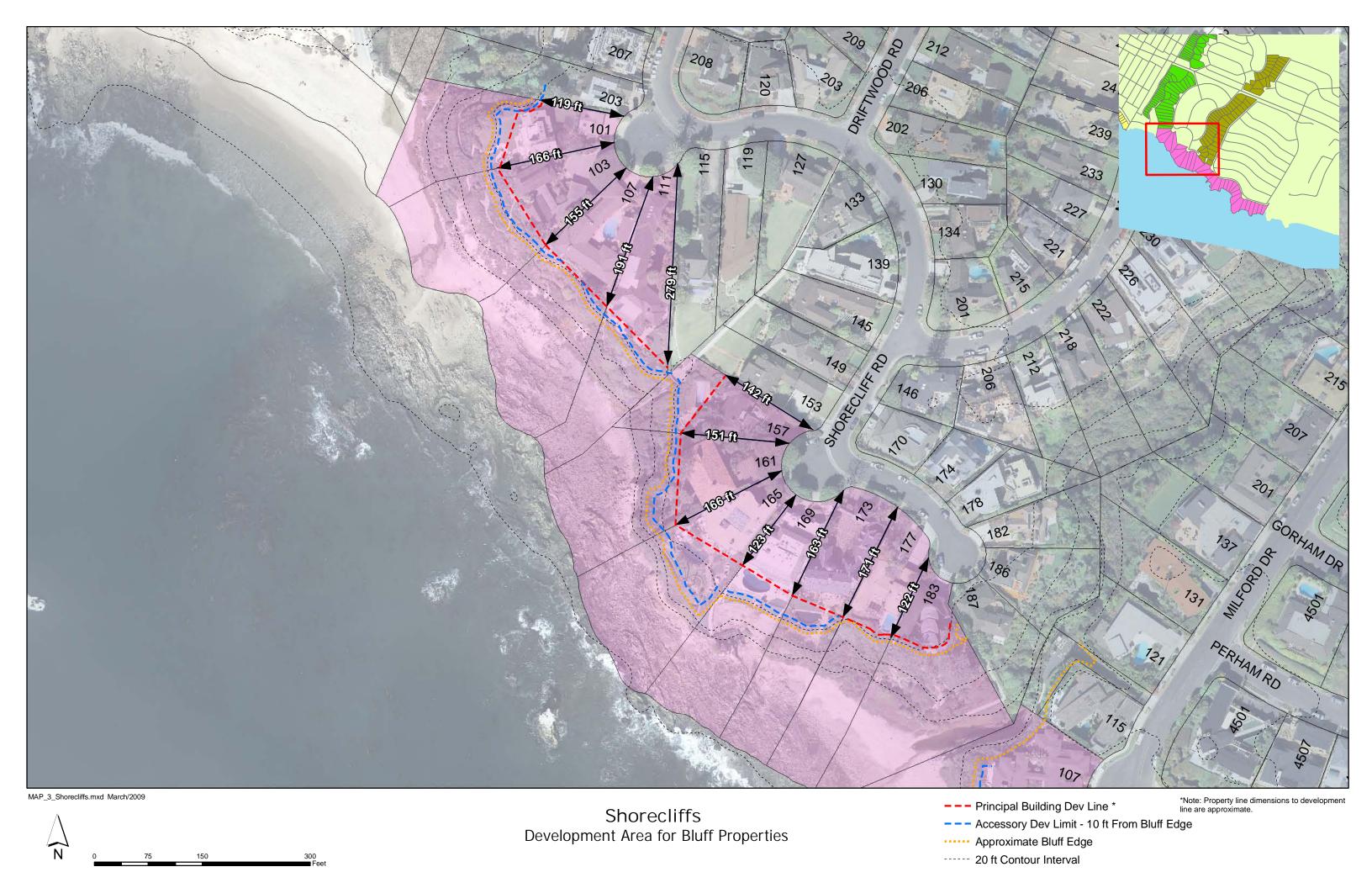


N 0 75 150 30<u>0</u>

Ocean Blvd / Breakers Dr.

Development Areas for Bluff Properties

20 ft Contour Interval





N 0 75 150 300

Cameo Shores
Development Areas For Bluff Properties

Principal Building Dev Line\* line at
Accessory Dev Limit - 10 ft From Bluff Edge
Approximate Bluff Edge
20 ft Contour Interval